

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARK BURDETT,

Case No. C-06-00720 JCS

Plaintiff,

v.

SAN FRANCISCO POLICE OFFICER
RAMON REYNOSO, ET AL.,

Defendants.

**ORDER DENYING PLAINTIFF'S
ADMINISTRATIVE REQUEST
REGARDING TRANSCRIPTS
DESIGNATED BY DEFENDANTS FOR
APPEAL [Docket No. 199]**

Plaintiff has filed an administrative request pursuant to Circuit Rules 7-11 and 10-3.1(d) and (f) entitled "Plaintiff-Appellant's Amended Certification that the Portions of the Transcript on Appeal Designated by Defendant-Appellees Are Unnecessary" (hereinafter, "the Administrative Request"). Under Circuit Rule 10-3.1(d) and (f), an appellant is required to pay for all portions of the transcript designated by both parties as necessary for the appeal unless the appellant certifies that the portions designated by the appellee are unnecessary. In that case, the district court is required to determine which party should pay for those portions of the transcript.

Here, Plaintiff has certified that the transcripts for the Final Pretrial Conference, held November 16, 2007, and for the hearing on jury instructions held December 11, 2007– which Defendants have designated as necessary for the appeal – are not necessary for the appeal. Defendants filed an opposition arguing that these two hearings shed light on how the Court separated the excessive force claim that was tried to the jury from the questions relating to the lawfulness of the arrest addressed on summary judgment. Consequently, Defendants argue, these

1 transcripts are relevant to Plaintiff's assertion, on appeal, that he is entitled to a new trial because the
2 summary judgment ruling "artificially truncated" the case and confused the jury.

3 The Court agrees with Defendants that these transcripts are necessary for the appeal and
4 therefore Orders that the costs of the transcripts for the November 16, 2007 and December 11, 2007
5 hearings be paid by Plaintiff-Appellant. Plaintiff's Administrative Request is DENIED.

6 IT IS SO ORDERED.

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8 Dated: April 16, 2008

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11 JOSEPH C. SPERO
12 United States Magistrate Judge
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